

FCC MAIL SECTION

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Before the
Federal Communications Commission
Washington, D.C. 20554

PR Docket No. 93-305

In the Matter of

Amendment of the Amateur
Service Rules to Implement a
Vanity Call Sign System.

SECOND MEMORANDUM OPINION AND ORDER

Adopted: April 23, 1996;

Released: May 3, 1996

By the Commission:

I. INTRODUCTION & EXECUTIVE SUMMARY

1. On September 21, 1995, we adopted a *Memorandum Opinion and Order*¹ that made certain minor amendments relating to the policies and procedures of the amateur station vanity call sign system.² Four timely Petitions for Reconsideration have been filed. The subject petitions seek reconsideration of the minor amendments that we adopted in the *Memorandum Opinion and Order*. For the reasons discussed below, we deny three petitions and grant in part and deny in all other respects the fourth petition. The amendment we adopt is to clarify that a renewal application for a vanity call sign is timely filed when received "on or before" the license expiration date.

II. BACKGROUND

2. Our computerized sequential call sign system assigns each new amateur station a unique call sign for use when transmitting the over-the-air identification.³ Many amateur operators, however, want to choose their call signs. The Omnibus Budget Reconciliation Act of 1993 made this possible by including an amendment to the Communications Act authorizing the Commission to assess and collect a fee for vanity call signs in the amateur service, although the Commission does not actually receive the money which

flows to the general Treasury. On December 23, 1994, the Commission adopted a *Report and Order*⁴ establishing such a system. The rules for the vanity call sign system are responsive to the desires of the amateur service community as expressed in the comments received in this proceeding. The vanity system generally follows the sequential system with respect to class of operator license, but allows the applicant to list 25 call signs in order of preference. The first assignable call sign is granted. To accommodate the expected rush of filings, the system will be opened in a series of five specified dates (or "gates.")⁵ At each successive "gate," additional classes of amateur operators will be allowed to request a vanity call sign, with former holders, close relatives of deceased former holders, and operators holding the higher classes of operator license being allowed to file first.

3. The subject petitions seek reconsideration of the minor amendments that we adopted in the *Memorandum Opinion and Order*. Upon reconsideration, we affirm the amendments we adopted in the *Memorandum Opinion and Order* and deny the petitions for reconsideration of Charnelle H. Summers, Jr. (Summers), The Hill Country Amateur Radio Club (Hill Country), and The Southern California Repeater and Remote Base Association (SCRRBA). We deny in part and grant in part the petition for reconsideration of David B. Popkin (Popkin).

III. DISCUSSION

4. SCRRBA and Summers believe that an inequity will result from our decision in the *Memorandum Opinion and Order* to limit the close relative exception⁶ to persons who hold the class of operator license required for the desired vanity call sign.⁷ SCRRBA is concerned that at the opening of Gate 1, a close relative who is not already eligible will have less time to qualify for the requisite class of operator license if the former holder died more than two years ago than if the former holder died recently.⁸ SCRRBA suggests, therefore, that if the former holder died more than two years ago, a close relative be allowed to request that the call sign be withheld from all otherwise qualified operators for two full years. The additional time would be for the close relative to prepare for and obtain the requisite class of operator license.⁹ Summers requests that an exception be allowed for an applicant who requests the former call sign of a deceased close relative, even where the applicant does not hold a sufficiently high class operator license to otherwise qualify for it.¹⁰

sign groups.

⁸ The vanity call sign system allows a licensee to request a call sign from the group corresponding to the same or lower operator class currently held. In the *Memorandum Opinion and Order*, *supra*, we deleted the exception that permitted a close relative to request the former call sign of a deceased licensee regardless of operator class. We concluded that the close relative exception should be limited to persons who hold the requisite or higher class of operator license. We noted that the lower class licensee, however, is not without recourse. Section 97.19(c)(3) of the Commission's Rules, 47 C.F.R. § 97.19(c)(3), provides a two-year period following a licensee's death during which the call sign is available only to close relatives.

⁹ Petition for Reconsideration of SCRRBA at 3-5.

¹⁰ Petition for Reconsideration of Summers at 4.

¹ *In the Matter of Amendment of the Amateur Service Rules to Implement a Vanity Call Sign System*, 10 FCC Rcd 11135 (1995).

² See FACT SHEET PR5000 Number 206-V, Amateur Station Vanity Call Sign System, dated October 1995.

³ See FACT SHEET PR-5000 #206, Sequential Call Sign System, dated February 1995.

⁴ *In the Matter of Amendment of the Amateur Service Rules to Implement a Vanity Call Sign System*, 10 FCC Rcd 1039 (1995).

⁵ See FACT SHEET PR5000 Number 206-V, *supra*, for details on the eligibility for requesting a vanity call sign at each gate.

⁶ A call sign becomes assignable two years after the death of the grantee. There is an exception for a close relative of the grantee. Provided that the close relative holds a class of operator license eligible for the call sign group, the call sign is assignable immediately. See FACT SHEET PR5000 Number 206-V, *supra*.

⁷ See FACT SHEET PR-5000 #206, *supra*, for details on call

5. In the *Memorandum Opinion and Order*, we decided that it would be unfair, to those who have qualified by passing difficult examinations for the requisite class of license, to allow a less-qualified licensee to obtain a call sign from a call sign group designated for a higher class of operator license, merely because the less-qualified licensee is a relative of the deceased former holder.¹¹ The purpose of Gate 1 is to provide a short-term priority to former holders and, where the former holders are deceased, to their relatives who hold the requisite class of operator license. To process requests from relatives who want call signs reserved while they try to qualify for the requisite classes of operator license would be an administrative burden and would delay the start of the vanity call sign system. There are numerous unassigned call signs that were formerly held by persons now deceased. These are the very call signs that persons who have held the necessary class of operator license for many years, and in some cases many decades, want to obtain through the vanity call sign system. It would be unfair to deny them the opportunity to request such unassigned call signs while relatives of the former holders try to qualify for the requisite license. Although some persons may have more time than others to qualify under the close relative exception, as is the case where the death will occur at some future date, we continue to believe that our decision is fair and consistent with the views of the amateur service community generally. Upon reconsideration, therefore, we affirm the decision we made in the *Memorandum Opinion and Order* and we decline to adopt the changes suggested by SCRRBA and Summers.

6. Hill Country objects to the date we established in the *Memorandum Opinion and Order* on which a club must have held a license in order to apply for a call sign under Gate 1A.¹² Hill Country argues that it was only after March 24, 1995, that the Commission resumed accepting license applications from new club stations. Hill Country contends that any club that filed an application for a new club station license within sixty days of March 24, 1995, that is, on or before May 23, 1995, should be permitted to file an application under Gate 1A.¹³

7. In the *Memorandum Opinion and Order*, Gate 1A was created for the purpose of providing a short-term priority to established club stations. We limited this priority to club stations that were licensed at the time the *Report and Order* became effective, i.e., on March 24, 1995, so that individuals would not form a club merely to gain an advantage of early access to the vanity call sign system.¹⁴ Despite the fact that Hill Country states that it did not form a club merely to obtain a vanity call sign,¹⁵ that does not mean that other individuals have refrained from doing so. The license trustees of club stations licensed after March 24, 1995, can apply for call signs, *in memoriam*, when the gate opens for the class of operator license that they hold.¹⁶ Upon reconsideration, therefore, we affirm the decision we made in the *Memorandum Opinion and Order* and we decline to adopt the changes suggested by Hill Country.

8. Popkin requests that Section 97.19(d)(2) of the Commission's Rules, 47 C.F.R. § 97.19(d)(2), be amended to describe the application processing procedure when none of the requested vanity call signs are assignable. He wants assurance that the original call sign will not then be considered a vanity call sign. Popkin also suggests that the rules be amended to specify, in such circumstances, that the regulatory fee will be refunded. He further petitions to have Section 97.21(a)(3)(i) and (ii) of the Commission's Rules, 47 C.F.R. § 97.21(a)(3)(i) and (ii), amended to state that an application for license renewal, received at the address specified by the Commission on the same date as the license expiration, is timely.¹⁷

9. An applicant's current sequential call sign is not transformed into a vanity call sign when none of the requested vanity call signs are assignable. Section 97.19(d)(2) clearly states that when none of the call signs requested by the applicant are assignable, the current sequential call sign will be shown on the license grant. Therefore, there is no need to clarify the rules as Popkin requests. If the application is not granted, the vanity call sign regulatory fee will be refunded. See Section 1.1160 of the Commission's Rules, 47 C.F.R. § 1.1160. Therefore, it is not necessary to amend the amateur service rules, as Popkin requests. Popkin's suggestion to amend the rules to clarify that a renewal application is timely filed, if received at the address specified by the Commission on or before the license expiration date, has merit. We will clarify the rules by adding the necessary language to Section 97.21, as requested.

IV. ORDERING CLAUSES

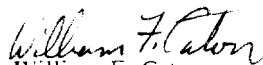
10. For the reasons given herein, and pursuant to the authority contained in 47 U.S.C. §§ 154(i) and 303(r), IT IS ORDERED that Part 97 of the Commission's Rules, 47 C.F.R. Part 97, IS AMENDED, effective (30 days after publication in the *Federal Register*), 1996, as set forth in the Appendix.

11. The petition for reconsideration of David B. Popkin IS GRANTED in part to clarify the timeliness of renewal applications and IS DENIED in all other respects.

12. The petitions for reconsideration of Charnelle H. Summers, Jr., The Hill Country Amateur Radio Club, and The Southern California Repeater and Remote Base Association ARE DENIED.

13. IT IS FURTHER ORDERED that this proceeding IS TERMINATED.

FEDERAL COMMUNICATIONS COMMISSION


William F. Caton
Acting Secretary

¹¹ See *Memorandum Opinion and Order*, *supra*, at paragraph 9.

¹² In the *Memorandum Opinion and Order*, *supra*, we added a fifth starting gate, Gate 1A. When this gate opens, a license trustee of a club station may request, *in memoriam*, the call sign previously assigned to the station of a deceased person who was a member of the club.

¹³ Petition for Reconsideration of Hill Country at 1 and 2.

¹⁴ *Ibid* at paragraph 10.

¹⁵ *Id* at 1.

¹⁶ Under Gate 2, holders of Amateur Extra Class may apply. Under Gate 3, holders of Advanced Class may apply. Under Gate 4, holders of General Class, Technician Plus Class, or Technician Class may apply.

¹⁷ Petition for Reconsideration of Popkin at 1 and 2.

APPENDIX

Part 97 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows: PART 97 - AMATEUR RADIO SERVICE

1. The authority citation for Part 97 continues to read as follows:

AUTHORITY citation: 48 Stat. 1066, 1082, as amended; 47 U.S.C. §§ 154, 303. Interpret or apply 48 Stat. 1064-1068, 1081-1105, as amended; 47 U.S.C. §§ 151-155, 301-609, unless otherwise noted.

2. Section 97.21 is amended by revising the last sentence of paragraphs (a)(3)(i) and (a)(3)(ii) to read as follows:

§ 97.21 Application for a modified or renewed license.

(a) * * *

(3) * * *

(i) * * * When the application for renewal of the license has been received by the FCC at 1270 Fairfield Road, Gettysburg, PA 17325-7245 on or before the license expiration date, the license operating authority is continued until the final disposition of the application.

(ii) * * * When the application has been received at the proper address specified in the Wireless Telecommunications Bureau Fee Filing Guide on or before the license expiration date, the license operating authority is continued until final disposition of the application.

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